



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

NORTHWEST TEXAS HOSPITAL
3255 W. PIONEER PKWY
ARLINGTON, TX 76013

DWC Claim #:

Injured Employee:

Date of Injury:

Employer Name:

Insurance Carrier #:

Respondent Name

TASB RISK MGMT FUND

Carrier's Austin Representative Box

47

MFDR Tracking Number

M4-08-1541-01

MFDR Date Received

November 05, 2007

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary taken from Table Of Disputed Services: "STOPLOSS RULE 134.40."

Amount in Dispute: \$22,738.97

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary Dated November 19, 2007: "The Staff Report (item 2 listed above) states that the language in the rule has specific parameters for payment of stop-loss bills. Two of these are that the services were unusually costly to the hospital (not simply high priced) and have been repriced to reasonable charges. Implantables when hospital charges are less than the stop-loss threshold are paid at 10% over invoice according to rule 134.401, and TASB feels that is a fair and reasonable allowance for implantables when charges for services other than implantables exceeds the stop-loss threshold. The Explanation of Benefits (item 4 listed above) reflects charges other than implantable were paid at 75%..."

Response Submitted by: Texas Association of School Boards

SUMMARY OF FINDINGS

Disputed Dates	Disputed Services	Amount In Dispute	Amount Due
March 21, 2007 through March 24, 2007	Inpatient Hospital Services	\$22,738.97	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 and §133.307, 31 *Texas Register* 10314, applicable to requests filed on or after January 15, 2007, sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.401, 22 *Texas Register* 6264, effective August 1, 1997, sets out the fee guidelines for inpatient services rendered in an acute care hospital.

The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of Benefits

- W12 – Extent of injury. Not finally adjudicated
- W12 – Extent of injury. Not finally adjudicated. Degenerative lumbar has been disputed
- W4 – No additional reimbursement allowed after review of appeal/reconsideration

Issues

1. Is denial code W12 supported?
2. Did the audited charges exceed \$40,000.00?
3. Did the admission in dispute involve unusually extensive services?
4. Did the admission in dispute involve unusually costly services?
5. Is the requestor entitled to additional reimbursement?

Findings

This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 Texas Administrative Code §134.401, titled *Acute Care Inpatient Hospital Fee Guideline*, effective August 1, 1997, 22 *Texas Register* 6264. The Third Court of Appeals' November 13, 2008 opinion in *Texas Mutual Insurance Company v. Vista Community Medical Center, LLP*, 275 *South Western Reporter Third* 538, 550 (Texas Appeals – Austin 2008, petition denied) addressed a challenge to the interpretation of 28 Texas Administrative Code §134.401. The Court concluded that "to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services." Both the requestor and respondent in this case were notified via form letter that the mandate for the decision cited above was issued on January 19, 2011. Each was given the opportunity to supplement their original MDR submission, position or response as applicable. The documentation filed by the requestor and respondent to date will be considered in determining whether the admission in dispute is eligible for reimbursement under the stop-loss method of payment. Consistent with the Third Court of Appeals' November 13, 2008 opinion, the division will address whether the total audited charges **in this case** exceed \$40,000; whether the admission and disputed services **in this case** are unusually extensive; and whether the admission and disputed services **in this case** are unusually costly. 28 Texas Administrative Code §134.401(c)(2)(C) states, in pertinent part, that "Independent reimbursement is allowed on a case-by-case basis if the particular case exceeds the stop-loss threshold as described in paragraph (6) of this subsection..." 28 Texas Administrative Code §134.401(c)(6) puts forth the requirements to meet the three factors that will be discussed.

1. The insurance carrier denied disputed services with reason codes W12 – "Extent of Injury. Not finally adjudicated." Review of the medical bill finds that the provider treated the injured worker for diagnosis codes 722.52 – Degen Lumbar/Lumbosacral intervertebral disc, 722.10 – Displcmt lumbar intervert disc w/o myelopath, 246.9 – Unspecified disorder of thyroid, V15.82 – Pers HX Tobacco use presenting hazards heal and 244.9 – Unspecified hypothyroidism." Review of the NOTICE OF DISPTUED ISSUE(s) AND REFUSAL TO PAY BENEFITS filed by the insurance carrier finds that "We are disputing entitlement of medical and indemnity benefits because: The Texas Association of School Boards Risk Management Fund (TASBRMF) amends our prior determination and accepts that your compensable injury extends and includes degenerative changes and recurrent disc herniation the the L5-S1 level. We continue to dispute degenerative changes and associated conditions at the other levels of your back. TASBRMF maintains that these disputed degenerative changes and associated conditions are due ordinary disease of life unrelated to your compensable work injury of 9/17/02." Review of the submitted documentation finds that the provider did not provide treatment for the disputed issue by the carrier and that the diagnoses for which treatment was rendered have not been disputed by the insurance carrier. These denial codes are not supported. The disputed services will therefore be reviewed per applicable Division rules and fee guidelines.

2. 28 Texas Administrative Code §134.401(c)(6)(A)(i) states "...to be eligible for stop-loss payment the total audited charges for a hospital admission must exceed \$40,000, the minimum stop-loss threshold." Furthermore, (A) (v) of that same section states "...Audited charges are those charges which remain after a bill review by the insurance carrier has been performed..." Review of the explanation of benefits issued by the carrier finds that the carrier did not deduct any charges in accordance with §134.401(c)(6)(A)(v); therefore the audited charges equal \$91,352.09. The division concludes that the total audited charges exceed \$40,000.
3. The requestor in its original position statement asserts that "STOPLOSS RULE 134.40." As noted above, the Third Court of Appeals in its November 13, 2008 rendered judgment to the contrary. The Court concluded that "to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved...unusually extensive services." The requestor failed to discuss or demonstrate that the particulars of the admission in dispute constitute unusually extensive services; therefore, the division finds that the requestor did not meet 28 TAC §134.401(c)(6).
4. In regards to whether the services were unusually costly. The third Court of Appeals' November 13, 2008 opinion concluded that in order to be eligible for reimbursement under the stop-loss exception, a hospital must **demonstrate** that an admission involved unusually costly services thereby affirming 28 Texas Administrative Code §134.401(c)(6) which states that "Stop-loss is an independent reimbursement methodology established to ensure fair and reasonable compensation to the hospital for unusually costly services rendered during treatment to an injured worker." The requestor failed to discuss the particulars of the admission in dispute constitute unusually costly services; therefore, the division finds that the requestor failed to meet 28 TAC §134.401(c)(6).
5. For the reasons stated above the services in dispute are not eligible for the stop-loss method of reimbursement. Consequently, reimbursement shall be calculated pursuant to 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount* and §134.401(c)(4) titled *Additional Reimbursements*. The division notes that additional reimbursements under §134.401(c)(4) apply only to bills that do not reach the stop-loss threshold described in subsection (c)(6) of this section.
 - Review of the submitted documentation finds that the services provided were surgical; therefore the standard per diem amount of \$1,118.00 per day applies. Division rule at 28 Texas Administrative Code §134.401(c)(3)(ii) states, in pertinent part, that "The applicable Workers' Compensation Standard Per Diem Amount (SPDA) is multiplied by the length of stay (LOS) for admission..." The length of stay was three days. The surgical per diem rate of \$1,118.00 multiplied by the length of stay of three days results in an allowable amount of \$3,354.00.
 - 28 Texas Administrative Code §134.401(c)(4)(C) states "Pharmaceuticals administered during the admission and greater than \$250 charged per dose shall be reimbursed at cost to the hospital plus 10%. Dose is the amount of a drug or other substance to be administered at one time." A review of the submitted documentation finds there is no itemized statement to determine the charges billed under revenue code 250. The requestor did not submit documentation to support what the cost to the hospital was for revenue code 250. For that reason, reimbursement for these items cannot be recommended
 - Review of the invoices provided for implantables for a total charge of \$8,235.00, although the requestor billed items under revenue code 278, no itemized statement was found to support or detail the implantables billed. For that reason, no additional reimbursement is recommended.

The division concludes that the total allowable for this admission is \$3,354.00. The respondent issued payment in the amount of \$45,775.10. Based upon the documentation submitted, no additional reimbursement can be recommended.

Conclusion

The submitted documentation does not support the reimbursement amount sought by the requestor. The requestor in this case demonstrated that the audited charges exceed \$40,000, but failed to discuss and demonstrate that the disputed inpatient hospital admission involved unusually extensive, and unusually costly services. Consequently, 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount*, and §134.401(c)(4) titled *Additional Reimbursements* are applied and result in no additional reimbursement.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

10/17/12
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.